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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,219	09/20/2006	Toshiyuki Kondo	028359-00001	5498
4372	7590	11/12/2009	EXAMINER	
ARENT FOX LLP			PRAKASAM, RAMYA G	
1050 CONNECTICUT AVENUE, N.W.				
SUITE 400			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20036			3651	
			NOTIFICATION DATE	DELIVERY MODE
			11/12/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com  
IPMatters@arentfox.com  
Patent\_Mail@arentfox.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/562,219	KONDO ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	RAMYA PRAKASAM	3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 June 2009.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 3-12 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-2 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Amended claims 5 and 6 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The inventions in Claims 1 and 2 are related to the invention in Claim 5 and the invention in Claim 6 as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are obvious variants, and if it is shown that at least one subcombination is separately usable. In this case, subcombinations in the claims have separate utilities such as being used in different assist transportation methods and devices.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 5 and 6 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 1 and 2 provide that the displacement value is detected, however it is also computed. Why would a value be detected, and then computed? Are they different values? If so, the claim would need to indicate that there are two different values. Currently, it appears that the value that is computed is the same value that is detected by the detection means. Appropriate correction is required.

4. Further, Claim 1 recites computing a displacement value to compute a reaction force which is computed by subtracting the reaction force from an assist driving force. However, it is impossible to compute a reaction force based on the same reaction force. The claim is unclear as to how to compute both the displacement value and the reaction force. Appropriate correction is required.

5. Claim 2 provides that an operator operates the transportation means through the motor by subtracting a reaction force from the assist driving force generated by the motor. Does the operator do the calculations themselves and operate based on this number. It is unclear as to how the operator can operate a motor by subtracting a reaction force. Appropriate correction is required.

6. The claims continue to be generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3651

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. As best understood by the examiner, Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakashima (US Patent Application Publication No. 2002/0017433).

As best understood by the examiner, Nakashima discloses an assist transportation method and device for reducing a load applied to a worker when the worker operates transportation means (120) to transport a product, comprising:

- Holding means (104) for holding the product;
- A floating mechanism (110) set to the connection portion between the holding means and the transportation means;
- Displacement detection means (138) for detecting the displacement value of the floating mechanism;
- Control means for computing the displacement value detected by the displacement detection means and computing a reaction force (See Paragraph 42);
- Communicating the reaction force to the worker (See Paragraph 42).

***Response to Arguments***

9. Applicant's arguments filed on 6/25/2009 have been fully considered but they are not persuasive.

10. In response to applicant's argument that the values are used to compute a reaction force, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to

patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMYA PRAKASAM whose telephone number is (571)272-6011. The examiner can normally be reached on Monday - Thursday, 9am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571)272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/  
Supervisory Patent Examiner, Art  
Unit 3651

11/4/2009  
RGP